

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 02/01/2022

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

NATURAL RESOURCES DEFENSE COUNCIL,  
INC.,

Plaintiff,

v.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY; and MICHAEL  
REGAN, in his official capacity as Administrator of  
the United States Environmental Protection Agency,

Defendants.

21 Civ. 461 (VEC)

**STIPULATION AND ORDER**

**STIPULATION AND ORDER REGARDING ATTORNEYS' FEES AND COSTS**

WHEREAS, on January 19, 2021, Plaintiff Natural Resources Defense Council, Inc. filed the above-captioned matter against the United States Environmental Protection Agency ("EPA") and Andrew Wheeler,<sup>1</sup> in his official capacity as Administrator of the EPA (collectively "Defendants");

WHEREAS, the Consent Decree entered by this Court on December 7, 2021, Dkt. No. 35, provided that Plaintiff may file a motion for costs of litigation (including attorneys' fees) by March 7, 2022; and

WHEREAS, all parties seek to resolve Plaintiff's claims for attorney's fees and costs on the terms provided herein, in the interest of judicial economy and without any admission of law or fact.

---

<sup>1</sup> Administrator Michael S. Regan was automatically substituted as party when he became Administrator of the EPA, pursuant to Fed. R. Civ. P. 25(d).

NOW, THEREFORE, Plaintiff and Defendants, intending to be bound by this Stipulation, hereby agree as follows:

1. As soon as practicable after the Court has endorsed and docketed this Stipulation as an Order of this Court, the United States shall pay \$32,265.38 to Plaintiff by electronic funds transfer in accordance with instructions provided to government counsel by Plaintiff's counsel. This payment shall constitute full satisfaction of any and all costs of litigation, including reasonable attorney fees, incurred by Plaintiff in connection with this action as of the date of entry of this Stipulation as an Order of the Court. Such payment releases the United States, including EPA and Michael Regan, from any claims regarding such fees and costs that Plaintiff have asserted or could have asserted under any provision of law in connection with this litigation as of the date of entry of this Stipulation.

2. Any obligation of the United States to expend funds under this Stipulation is subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341 ("Anti-Deficiency Act"). This Stipulation shall not be construed to require the United States to obligate or pay funds in contravention of the Anti-Deficiency Act.

3. The parties understand and agree that the amount agreed to is a compromise of a claim and there is no admission by either party regarding liability for, or the amount of, fees that could be sought or recovered in this action.

4. Plaintiff reserves the right to seek additional costs of litigation under applicable law, including reasonable attorney fees, incurred in connection with this case subsequent to entry of this Stipulation as an Order of the Court, as provided by Paragraph 18 of the Consent Decree. Defendants reserve the right to oppose any such request for additional costs and attorney fees.

5. The Court shall retain jurisdiction to enforce the terms of this Stipulation.

6. The undersigned representatives of the parties certify that they are fully authorized by the parties they represent to enter into and execute the terms and conditions of this Stipulation. By signature below, all parties consent to this Stipulation.

7. This Stipulation is subject to the approval of the Court. In the event that the Court declines to approve this Stipulation, it shall be null and void, with no force or effect.

Dated: February 1, 2022

Dated: February 1, 2022

DAMIAN WILLIAMS  
United States Attorney

By: Michelle Wu  
MICHELLE WU  
Natural Resources Defense Council  
40 W. 20th Street  
New York, NY 10011  
Telephone: (646) 889-1489  
E-mail: michellewu@nrdc.org  
*Attorney for Plaintiff*

By: Zachary Bannon  
ZACHARY BANNON  
Assistant United States Attorney  
United States Attorney's Office  
Southern District of New York  
86 Chambers Street, 3<sup>rd</sup> Floor  
New York, New York 10007  
Telephone: (212) 637-2728  
E-mail: Zachary.Bannon@usdoj.gov  
*Attorney for Defendants*

SO ORDERED on this 01 day of February, 2022.

Valerie Caproni  
HON. VALERIE CAPRONI  
United States District Judge